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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 09/619,957
Filing Date: July 20, 2000
Appellant(s): KOHLI, JAMES F.

John M. Rariden
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 10/20/05 appealing from the Office action mailed 8/17/05.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,260,021	Wong et al.	7-2001
4,899,292	Montagna et al.	2-1990

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,260,021 to Wong et al. in view of U.S. Patent No. 4,899,292 to Montagna et al.

As per claim l, Wong et al. teaches a computer-based medical image distributed system configured with one or more report interface engines for retrieving medical report data associated with medical image data from one or more existing storage systems and for presenting retrieved medical report data as medical report objects with a uniform object-oriented structure which includes a method for generating reports for management of a medical facility (see: column 4, lines 16-30), the method comprising the steps of:

(a) the claimed storing data representative of operation of a medical facility in a data repository operative in a first processing space is met by middleware database (62, Fig. 2) (see: column 12, lines 64 to column 13, line 6).

Wong et al. also teaches one or more image object coordinators that further receive medical report requests associated with the medical image data transmitted from one of the graphical interfaces, obtain medical report objects in uniform object-oriented structure from one or more report interface engines, compose medical report objects for display by graphical interface, and transmit composed medical report objects to the requesting graphical interface

(see: column 4, lines 16-30). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer or other link encryption protocols are used to insure confidentiality of the medical information (reads on "transmitting data by security device") (see: column 3, lines 46-48 and column 8, lines 59-64).

Wong et al. fails to explicitly teach:

(b) the claimed accessing data from the repository to populate a report;

(c) the claimed transmitting the accessed data to a second processing space separated from the first processing space; and

(d) the claimed generating the report in the second processing space based upon the transmitted data.

Montagna et al. teaches:

(b) the claimed accessing data from the repository to populate a report is met by the different menus for repair or insurance estimation function that are displayed for user selection (see: column 13, lines 11-31 and Fig. 13-16);

(c) the claimed transmitting the accessed data to a second processing space separated from the first processing space is met by the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2); and

(d) the claimed generating the report in the second processing space based upon the transmitted data is met by the different menus for repair or insurance estimation function that are

displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the transmission data from a first processing space to a second processing space to generate a report as taught by Montagna et al. within the computer-based medical image distributed system as taught by Wong et al. with the motivation of storing and retrieving document text which permits convenient and rapid selection and display of associated graphics (see: Montagna et al.: column 2, lines 47-52).

As per claim 2, Montagna et al. teaches the claimed data is accessed in accordance with a predetermined reporting schedule. This limitation is met by the electronic clock and calendar module (80, Fig. 4), which is provided to the assist system (20, Fig. 1) in generating reports (see: column 7, lines 20-22).

As per claim 3, Wong et al. teaches the claimed data is accessed in response to an operator prompt for report generation. This limitation is met by the client object requests generated by the user running on a client workstation for accessing medical images data or report data (see: column 10, lines 48-54).

As per claim 4, Montagna et al. teaches the claimed step of generating a report template identifying data to be accessed in the first processing space, and wherein step (b) includes accessing data identified in the report template. This feature is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

As per claim 5, Wong et al. teaches the claimed security device includes a firewall. This limitation is met by the security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer or other link encryption protocols are used to insure confidentiality of the medical information (see: column 3, lines 46-48 and column 8, lines 59-64).

As per claim 6, Montagna et al. teaches the claimed accessed data is stored in a data file and step (c) includes exporting the data file to a storage medium in the second processing space. This limitation is met by the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2).

As per claim 7, Wong et al. teaches the claimed step of automatically generating a notification message indicative of availability of the report generated in step (d). This limitation is met by the object definition component that stores data such report objects and the location data component stores object identifiers and message routing information (see: column 13, lines 51-58).

As per claim 8, Wong et al. teaches the claimed message is transmitted to a user, and the report is maintained in the second processing space at least until the user accesses the report to a remote location. This feature is met by the location data component stores object identifiers and message routing information (see: column 13, lines 51-58).

As per claims 9 and 10, Wong et al. teaches the claimed second processing space is accessible via a wide area network and Internet. This limitation is met by the client systems that

are link via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet (see: column 8, lines 53-61).

As per claim 11, Wong et al. teaches the claimed report is generated for a subscribing medical facility, and wherein the first processing space is inaccessible to the subscribing facility. This feature is met by the user accessing a client workstation using user identification information to request medical images or report requests (see: column 14, lines 1-16). The Examiner considers user identification information as a requirement by the user to access medical images or reports that are inaccessible to the non-subscription users or medical facilities.

As per claim 12, Wong et al. teaches a computer-based medical image distributed system configured with one or more report interface engines for retrieving medical report data associated with medical image data from one or more existing storage systems and for presenting retrieved medical report data as medical report objects with a uniform object-oriented structure which includes a method for generating reports for management of a medical facility (see: column 4, lines 16-30), the method comprising the steps of:

(a) storing data representative of activities of the medical diagnostic facility in a secure database operative in a first processing space is met by middleware database (62, Fig. 2) (see: column 12, lines 64 to column 13, line 6).

Wong et al. fails to explicitly teach:

(b) defining a report template, the report template identifying data for presentation in a report;

(c) populating a data file in the first processing space with data from the database as identified by the report template;

(d) exporting the data file to a second processing space separated from the first processing space; and

(e) generating the report in the second processing space based upon the template and the data file.

Montagna et al. teaches:

(b) defining a report template, the report template identifying data for presentation in a report is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2);

(c) populating a data file in the first processing space with data from the database as identified by the report template is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2);

(d) exporting the data file to a second processing space separated from the first processing space is met by the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2); and

(e) generating the report in the second processing space based upon the template and the data file is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

(A) Claim 12 has been amended to now recite the step of "...second space separated from the first processing space by a security device".

As per this limitation, Wong et al. is relied on for teaching that the client systems that are link via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet (see: column 8, lines 53-61). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer or other link encryption protocols are used to insure confidentiality of the medical information (reads on "transmitting data by a security device") (see: column 3, lines 46-48 and column 8, lines 59-64). Montagna was relied for teaching the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2). The Examiner considers the security protocols as taught by Wong and combining the separate processing space as taught by Montagna arrives at the Applicant invention.

The obviousness for combining the teachings of Montagna et al. with the system as taught by Wong et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 13, Wong et al. teaches the claimed step (a) includes storing data accessed from the medical diagnostic facility during automated data collection. This limitation is met by the middleware database (62, Fig. 2) that stores data and persistent objects (see: column 12, line 63 to column 13, line 6).

As per claim 14, Wong et al. teaches the claimed first processing space is inaccessible by the medical diagnostic facility. This feature is met by the user accessing a client workstation using user identification information to request medical images or report requests (see: column

14, lines 1-16). The Examiner considers user identification information as a requirement by the user to access medical images or reports that are inaccessible to the non-subscription users or medical facilities.

As per claim 15, Wong et al. teaches the claimed second processing space is accessible by the medical diagnostic facility. This feature is met by the user accessing a client workstation using user identification information to request medical images or report requests (see: column 14, lines 1-16). The Examiner considers user identification information as a requirement by the user to access medical images or reports that are inaccessible to the non-subscription users or medical facilities.

As per claims 16 and 17, they are rejected for the same reasons set forth in claims 9 and 2.

As per claim 18, Montagna et al. teaches the claimed report is stored in the second processing space until accessed by the medical diagnostic facility. This limitation is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

As per claim 19, it is rejected for the same reason set forth in claim 12.

As per claims 20 and 21, they are rejected for the same reasons set forth in claims 9 and 10.

As per claim 22, Wong et al. teaches the claimed data stored in step (a) is collected at least partially during automated data collection sessions between the medical diagnostic facility and a remote service provider. This limitation is met by the middleware database (62, Fig. 2) that

stores data and persistent objects (see: column 12, line 63 to column 13, line 6). The Examiner considers the data in the middleware database at the time of collection to be either partial data or the complete set of data.

As per claim 23, Wong et al. teaches a computer-based medical image distributed system configured with one or more report interface engines for retrieving medical report data associated with medical image data from one or more existing storage systems and for presenting retrieved medical report data as medical report objects with a uniform object-oriented structure which includes a method for generating reports for management of a medical facility (see: column 4, lines 16-30), the system comprising:

--the claimed secure data repository operative in a first processing space for storing data representative of activities of the medical diagnostic facility is met by middleware database (62, Fig. 2) (see: column 12, lines 64 to column 13, line 6); and

--the claimed data access program module, operative in the first processing space for extracting the desired data from the repository is met by the middleware database (62, Fig. 2) that stores data and persistent objects (see: column 12, line 63 to column 13, line 6). In addition, Wong et al. teaches one or more image object coordinators that further receive medical report requests associated with the medical image data transmitted from one of the graphical interfaces, obtain medical report objects in uniform object-oriented structure from one or more report interface engines, compose medical report objects for display by graphical interface, and transmit composed medical report objects to the requesting graphical interface (see: column 4, lines 16-30). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket

layer or other link encryption protocols are used to insure confidentiality of the medical information (see: column 3, lines 46-48 and column 8, lines 59-64).

Wong et al. fails to explicitly teach:

--the claimed report template identifying desired data for populating a report;

--the claimed second data repository operative in a second processing space securely separated from the first processing space for storing the desired data extracted by the data access program module; and

--the claimed report generation program module, operative in the second processing space for generating a report based upon the desired data.

Montagna et al. teaches:

--the claimed report template identifying desired data for populating a report is met by the different menus for repair or insurance estimation function that are displayed for user selection (see: column 13, lines 11-31 and Fig. 13-16);

--the claimed second data repository operative in a second processing space securely separated from the first processing space for storing the desired data extracted by the data access program module is met by the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2); and

--the claimed report generation program module, operative in the second processing space for generating a report based upon the desired data is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information

obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

The obviousness for combining the teachings of Montagna et al. with the system as taught by Wong et al. are discussed in the rejection of claim 1, and incorporated herein.

As per claim 24, it is rejected for the same reasons set forth in claim 2.

As per claim 25, Montagna et al. teaches the claimed second data repository is configured to store the report. This feature is met by the different menus for repair or insurance estimation function that are displayed for user selection based on information obtained from the central computer (437, Fig. 4) (see: column 13, lines 11-31, Fig. 13-16 and column 14, line 55 to column 15, line 2).

As per claim 26, Montagna et al. teaches the claimed second data repository is accessible by the medical diagnostic facility. This feature is met by the user accessing a client workstation using user identification information to request medical images or report requests (see: column 14, lines 1-16). The Examiner considers user identification information as a requirement by the user to access medical images or reports that are inaccessible to the non-subscription users or medical facilities.

As per claim 27, Wong et al. teaches the claimed a server coupled to the second data repository for transmitting the report to the medical diagnostic facility. This feature is met by the server (12, Fig. 1), which provides uniform and rapid distribution of information between first-tier system and the third-tier systems such as workstation (see: column 7, lines 11-14).

As per claim 28, Wong et al. teaches the claimed server is configured to be coupled to a wide area network, and to transmit the report to the medical diagnostic facility via the wide area

network. This limitation is met by the client systems that are linked via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet to the medical image server (12, Fig. 1) (see: column 8, lines 53-61).

As per claim 29, it is rejected for same reasons set forth in claim 1.

As per claim 30, Wong et al. teaches the claimed means for notifying the medical facility of availability of the report. This limitation is met by the object definition component that stores data such report objects and the location data component stores object identifiers and message routing information (see: column 13, lines 51-58).

As per claim 31, Wong et al. teaches the claimed means for transmitting the report to the medical facility. This feature is met by the one or more image object coordinators that further receive medical report requests associated with the medical image data transmitted from one of the graphical interfaces, obtain medical report objects in uniform object-oriented structure from one or more report interface engines, compose medical report objects for display by graphical interface, and transmit composed medical report objects to the requesting graphical interface (see: column 4, lines 16-30).

As per claim 32, Wong et al. teaches the claimed means for transmitting the report includes a wide area network. This limitation is met by the client systems that are linked via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet to the medical image server (12, Fig. 1) (see: column 8, lines 53-61).

As per claim 33, Montagna et al. teaches the claimed first processing space is inaccessible by the medical facility and the second processing space is accessible by the medical facility. This feature is met by the user accessing a client workstation using user identification

information to request medical images or report requests (see: column 14, lines 1-16). The Examiner considers user identification information as a requirement by the user to access medical images or reports that are inaccessible to the non-subscription users or medical facilities.

As per claim 34, it is rejected for the same reasons set forth in claim 1.

As per claim 35, it repeats the subject matter of claim 1, as a set of "computer program", "computer readable medium" and "computer code" elements rather than a series of steps. As the underlying processes of claim 1 has been shown to be obvious in view of the teachings of Wong et al. and Montagna et al. in the above rejections of claim 1, it is readily apparent that the system disclosed by Wong et al. and Montagna et al. includes a computer program including computer code on a computer readable medium to perform these functions. As such, these limitations are rejected of the same reasons given above for method claim 1, and incorporated herein.

As per claims 36 and 37, they repeat the subject matter of claims 12 and 19, as a set of "computer program", "computer readable medium" and "computer code" elements rather than a series of steps. As the underlying processes of claims 12 and 19 has been shown to be obvious in view of the teachings of Wong et al. and Montagna et al. in the above rejections of claims 12 and 19, it is readily apparent that the system disclosed by Wong et al. and Montagna et al. includes a computer program including computer code on a computer readable medium to perform these functions. As such, these limitations are rejected of the same reasons given above for method claim 1, and incorporated herein.

(A) Claims 19 and 37 has been amended to now recite the step of "...first processing space to a second processing space securely separated from the first processing space".

As per this limitation, Wong et al. is relied on for teaching that the client systems that are link via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet (see: column 8, lines 53-61). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer or other link encryption protocols are used to insure confidentiality of the medical information (reads on "transmitting data by a security device") (see: column 3, lines 46-48 and column 8, lines 59-64). Montagna was relied for teaching the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2). The Examiner considers the security protocols as taught by Wong and combining the separate processing space as taught by Montagna arrives at the Applicant invention.

The obviousness for combining the teachings of Montagna et al. with the system as taught by Wong et al. are discussed in the rejection of claim 1, and incorporated herein.

(B) Claim 36 has been to now recite the step of "...second processing space securely separated from the first processing space".

As per this limitation, Wong et al. is relied on for teaching that the client systems that are link via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet (see: column 8, lines 53-61). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer or other link encryption protocols are used to insure confidentiality of the medical information (reads on "transmitting data by a security device") (see: column 3, lines 46-48 and column 8, lines 59-64). Montagna was relied for teaching the

transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2). The Examiner considers the security protocols as taught by Wong and combining the separate processing space as taught by Montagna arrives at the Applicant invention.

The obviousness for combining the teachings of Montagna et al. with the system as taught by Wong et al. are discussed in the rejection of claim 1, and incorporated herein.

(10) Response to Argument

In the Appeal Brief filed 20 October 2005, Appellant makes the following arguments:

(A) The Examiner rejection of claims 1-33 and 35-37 in improper because the rejection fails to establish a prima facie case of obviousness.

(B) The references do not disclose a first and a second processing spaces.

(C) The references fail to teach a security device or securely separating the processing spaces.

(D) The references fail to teach data associated with operation or activities of a medical facility.

Examiner will address Appellant's arguments in sequence as they appear in the brief.

Response to Arguments (A)

In response to argument (A) The Examiner respectfully submits that establishing a *prima facie* case of obviousness is determined on the basis of the evidence as a whole and the relative persuasiveness of the arguments. See *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992); *In re Hedges*, 783 F.2d 1038, 1039, 228 USPQ 685,686 (Fed. Cir. 1992); *In re Piasecki*, 745 F.2d 1468, 1472, 223 USPQ 785,788 (Fed. Cir. 1984); and *In re Rinehart*,

531 F.2d 1048, 1052, 189 USPQ 143,147 (CCPA 1976). Using this standard, the Examiner respectfully submits that he has at least satisfied the burden of presenting a *prima facie* case of obviousness, since he has presented evidence of corresponding claim elements in the prior art and has expressly articulated the combinations and the motivations for combinations that fairly suggest Appellant's claimed invention (dated 8/18/05).

In addition, the Examiner recognizes obviousness is not determined by what the references expressly state but by what they would reasonably suggest to one of ordinary skill in the art, as supported by decisions in *In re DeLisle* 406 Fed 1326, 160 USPQ 806; *In re Kell, Terry and Davies* 208 USPQ 871; and *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ 2d 1596, 1598 (Fed. Cir. 1988) (citing *In re Lalu*, 747 F.2d 703, 705, 223 USPQ 1257, 1258 (Fed. Cir. 1988)). Further, it was determined in *In re Lamberti et al*, 192 USPQ 278 (CCPA) that:

(i) obviousness does not require absolute predictability;
(ii) non-preferred embodiments of prior art must also be considered; and
(iii) the question is not express teaching of references, but what they would suggest.

Additionally, the Examiner recognizes that references cannot be arbitrarily altered or modified and that there must be some reason why one skilled in the art would be motivated to make the proposed modifications. However, although the Examiner agrees that the motivation or suggestion to make modifications must be articulated, it is respectfully contended that there is no requirement that the motivation to make modifications must be expressly articulated within the references themselves. References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures, *In re Bozek*, 163 USPQ 545 (CCPA 1969).

As such, it is respectfully submitted that an explanation based on logic and sound scientific reasoning of one ordinarily skilled in the art at the time of the invention that support a

holding of obviousness has been adequately provided by the motivations and reasons indicated by the Examiner in the prior Office Action (paper dated 8/18/05), *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter., 4/22/93).

Response to Arguments (B)

In response to argument (B), the Examiner respectfully submits that Montagna teaches the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2). Furthermore, Montagna teaches that communications between the computer terminal (20 Fig. 4) that includes DRAM/SRAM and the central computer (437, Fig. 4) is completed via a modem (89, Fig. 4) (see: column 6, lines 40-41). This clearly shows that the computer including DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) use separate processing space because access is gained via a modem as illustrated in Fig. 4 of Montagna. In addition, Appellant has not defined the term "processing space" as a storage device capable of processing any data or information therefore, the term "processing space" is broadly interpreted to be a storage device for data or information as described by Montagna. It is not clear what "processing", if any, is actively performed by the claimed "processing space".

Response to Arguments (C)

In response to argument (C), the Examiner respectfully submits the reference of Wong et al. is relied on for teaching that the client systems that are link via network links (36, Fig. 1) such as campus intranet, a wide-area intranet, or even the Internet (see: column 8, lines 53-61). In addition, Wong et al. teaches a security object server for authorizing user access to the image distribution system to particular objects and appropriate security protocols such as socket layer

or other link encryption protocols are used to insure confidentiality of the medical information (see: column 3, lines 46-48 and column 8, lines 59-64). Montagna was relied for teaching the transmission of data from the DRAM/SRAM (second processing space) and the central computer (437, Fig. 4) (first processing space) (see: column 14, line 50 to column 15, line 2). The Examiner considers that using the different level of security or appropriate security protocols with processing space such as middleware database (62, Fig. 2) (see: column 12, lines 64 to column 13, line 6) as described by Wong et al. with the separate processing space as taught by Montagna arrive at the Appellant's invention. Furthermore, since Wong teaches appropriate security protocols it would have been obvious to include security device at front end of the first processing space and the second processing space as described by Montagna in order to secure transmission of information between two processing spaces.

Response to Arguments (D)

In response to argument (D), the Examiner respectfully submits that Appellant does not provide a strict definition for the phrase "data representative of operations or activities of a medical facility". In addition, the passages cited by the Appellant page 2, lines 29-31 is from the "Background of Invention" and page 3, lines 23-31 does not provide a strict definition for the phrase "data representative of operations or activities of a medical facility". Furthermore, Wong et al. teaches medical image data comprising radiology image data or cardiology image data and this information would include size of a file, type of image, etc... and easily could be considered data representative of operations or activity in a medical facility (see: column 4, lines 49-51). Even *assuming arguendo* that Appellant is correct in the assertion that Wong and Montagna references do not disclose data representative of operations or activities of a medical facility

(which Examiner respectfully disagrees), these differences are only found in the non-functional data stored in the data repository of the first processing space. The data representative of operations or activities of a medical facility are not functionally related to the functions of the storing, accessing, transmitting and generating of reports from the first processing to the second processing space. Thus, this descriptive information will not distinguish the claimed invention from the prior art in terms of patentability, see Cf. *In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 40, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to use various types of medical image data in the system as taught by Wong and Montagna because such information does not functionally relate to the storing, accessing, transmitting and generating of reports from the first processing to the second processing space and merely using different data representative of operations or activities of a medical facility from that in the prior art would have been obvious matter of design choice. See *In re Kuhle*, 526 F.2d 553, 555, 188 USPQ 7, 9 (CCPA 1975).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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